# United States Department of Labor
# Employees' Compensation Appeals Board

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| **K.B., Appellant** | ) | |
| | ) | **Docket No. 25-0615** |
| **and** | ) | **Issued: December 10, 2025** |
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| **U.S. POSTAL SERVICE, PEARL CITY POST OFFICE, Pearl City, HI, Employer** | ) | |

*Appearances:*
*Appellant, pro se*
*Office of Solicitor*, for the Director

*Case Submitted on the Record*

## DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

### ***JURISDICTION***

On June 12, 2025 appellant filed a timely appeal from a March 27, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP).[1] Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

[1] Appellant submitted a timely request for oral argument before the Board in connection with her appeal of the March 27, 2025 decision of OWCP. 20 C.F.R. § 501.5(b). In support of her oral argument request, appellant asserted that oral argument was necessary to clarify the medical record to establish her claim for a schedule award for permanent impairment caused by accepted work-related injuries. Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). The Board, in exercising its discretion, denies appellant's request for oral argument because this matter requires an evaluation of the evidence of record. As such, the arguments on appeal can be adequately addressed in a decision based on a review of the case record. Oral argument in this appeal would not serve a useful purpose. Therefore, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

[2] 5 U.S.C. § 8101 *et seq*.

[3] The Board notes that, following the March 27, 2025 decision, OWCP received additional evidence. The Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id*.

## ***ISSUE***

The issue is whether appellant has met her burden of proof to establish greater than 18 percent permanent impairment of her right upper extremity and 5 percent permanent impairment of her left upper extremity, for which she previously received schedule award compensation.

## ***FACTUAL HISTORY***

On June 15, 2016 appellant, then a 40-year-old letter carrier technician, filed an occupational disease claim (Form CA-2) alleging that she sustained carpal tunnel syndrome due to factors of her federal employment, including lifting parcels, casing mail, and delivering mail. She noted that she first became aware of her condition and realized its relationship to her federal employment on October 1, 2014. OWCP assigned the claim OWCP File No. xxxxxx931 and accepted it for right carpal tunnel syndrome and lateral epicondylitis of the right elbow. It subsequently expanded the acceptance of appellant's claim to include left carpal tunnel syndrome, right ulnar nerve lesion, and sprain of carpal joint of right wrist (scapholunate ligament tear), initial encounter. On September 21, 2016 appellant underwent an OWCP-authorized bilateral carpal tunnel release. On October 17, 2017 she underwent an OWCP-authorized right ulnar nerve release. On March 28, 2018 appellant underwent an OWCP-authorized right wrist arthroscopy, scapholunate ligament tightening, and triangular fibrocartilage complex (TFCC) tear repair. She returned to full-time, full-duty work on September 17, 2018.[4]

On October 3, 2019 appellant filed a claim for compensation (Form CA-7) for a schedule award.

On February 6, 2020 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. WeiChin Chen, a Board-certified orthopedic surgeon, for a second opinion examination to determine the extent of appellant's bilateral upper extremity permanent impairments utilizing the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).[5]

In a February 21, 2020 report, Dr. Chen noted his review of the SOAF and the medical record. He also recorded appellant's physical examination findings. Regarding permanent impairment of the right upper extremity caused by right lateral epicondylitis, Dr. Chen referred to Table 15-33 (Elbow/Forearm Range of Motion), p. 474 of the A.M.A., *Guides* to find that elbow extension and hyperextension at 10 degrees, flexion at 137 degrees, supination at 70 degrees and pronation at 86 degrees all corresponded to 0 percent impairment. He therefore found that the range of motion (ROM) rating methodology should not be used as the diagnosis-based impairment (DBI) rating methodology provided a higher percentage of permanent impairment. Referring to Table 15-4 (Elbow Regional Grid -- Upper Extremity Impairments), page 399 of the A.M.A., *Guides*, Dr. Chen utilized the DBI rating methodology to assign a = Class 1, grade C impairment

[4] On December 11, 2019 appellant filed a traumatic injury claim (Form CA-1) alleging that on November 26, 2019 she injured her left ankle and right shoulder when she lost her balance descending stairs and fell to the ground over a small hill and four steps, while in the performance of duty. OWCP assigned the claim OWCP File No. xxxxxx123. On February 4, 2020 it accepted appellant's traumatic injury claim under OWCP File No. xxxxxx123 for fracture of one rib, right side, initial encounter for closed fracture (consequential), sprain of unspecified ligament of left ankle, initial encounter, sprain of unspecified site of left knee, initial encounter (consequential), and unspecified strain of right shoulder joint, initial encounter.

[5] A.M.A., *Guides* (6th ed. 2009).

for the class of diagnosis (CDX) of right lateral epicondylitis, without surgery, with a default rating of one percent. He assigned a grade modifier for functional history (GMFH) of 2 for a *Quick*DASH score of 57, a grade modifier for physical examination (GMPE) of 2 for moderate palpatory findings consistent with diagnostic studies, and a grade modifier for clinical studies (GMCS) of 0. The net adjustment modifier was 2, which equaled two percent permanent impairment of the right upper extremity.

Regarding permanent impairment of the right upper extremity for the TFCC tear, status-postsurgical repair, Dr. Chen noted that, as the ROM methodology under Table 15-32 (Wrist Range of Motion), page 473 of the A.M.A., *Guides*, would result in two percent permanent impairment of the right upper extremity for radial deviation at 12 degrees. He explained that the DBI methodology was preferred as it resulted in a greater percentage of impairment. Dr. Chen referred to Table 15-3 (Wrist Regional Grid, Upper Extremity Impairments), page 397 of the A.M.A., *Guides*, to assign a Class 1, grade C impairment, with a default rating of eight percent. He assigned a GMFH of 2 for a *Quick*DASH score of 57, GMPE of 0, and GMFH of 0, which resulted in a net modifier of 2, to equal 10 percent permanent impairment of the right upper extremity.

Regarding permanent impairment of the right upper extremity caused by right carpal tunnel syndrome, Dr. Chen referred to Table 15-23 (Entrapment/Compression Neuropathy Impairment), page 449 of the A.M.A., *Guides*. He assigned a GMFH of 2, a GMPE of 2, and a GMCS of 1. Dr. Chen noted no change due to the *Quick*DASH score of 57. He totaled the grade modifiers to find five percent permanent impairment of the right upper extremity.

Regarding permanent impairment of the right upper extremity for right cubital tunnel syndrome postsurgical release, Dr. Chen referred to Table 15-23 to assign a GMFH of 2, a GMPE of 2, and a GMCS of 1 for conduction delay, which resulted in a net modifier of 2 to equal five percent permanent impairment. He applied the Combined Values Chart to find a total eight percent permanent impairment of the right upper extremity. In conclusion, Dr. Chen combined the 10 percent impairment for TFCC tear with the 2 percent right upper extremity impairment for right lateral epicondylitis, to equal 12 percent impairment of the right upper extremity. He then applied the Combined Values Chart to equal 19 percent permanent impairment of the right upper extremity.

Regarding permanent impairment of the left upper extremity caused by left carpal tunnel syndrome status postsurgical release, Dr. Chen assigned a GMCS of 1, GMFH of 2, and GMPE of 2, which resulted in a net modifier of 2. He noted that appellant's *Quick*DASH score of 57 did not change the impairment rating. Dr. Chen therefore found five percent permanent impairment of the left upper extremity due to left carpal tunnel syndrome.

On April 3, 2020 OWCP referred appellant's claim to Dr. Michael M. Katz, a Board-certified orthopedic surgeon, serving as a district medical adviser (DMA), to review the medical evidence of record and calculate the percentage of appellant's permanent impairment.

In an April 10, 2020 report, Dr. Katz opined that the correct net grade modifier for right TFCC tear was 1, modifying the default to equal 9 percent permanent impairment of the right upper extremity, rather than the 10 percent as found by Dr. Chen. He concurred with the remainder of Dr. Chen's opinion and impairment rating.

By decision dated August 4, 2020, OWCP granted appellant a schedule award for 18 percent permanent impairment of the right upper extremity and 5 percent permanent impairment

of the left upper extremity. The period of the award ran for 71.76 weeks from June 30, 2020 through November 14, 2021.

On September 22, 2021 appellant underwent left arthroscopic tennis elbow release. She did not return to work following the surgery. On December 5, 2022 OWCP underwent an anterior cervical discectomy and fusion at C5-6 and C6-7.

On August 21, 2023 OWCP administratively combined appellant's claims under OWCP File Nos. xxxxxx931 and xxxxxx123, with the former designated as the master file.

On July 20, 2024 appellant filed a Form CA-7 for an increased schedule award.

On September 11, 2024 OWCP expanded the acceptance of appellant's claim under OWCP File No. xxxxxx931 to include the additional conditions of permanent aggravation of other cervical disc degeneration at C5-6 and C6-7.

Also on September 11, 2024 OWCP referred appellant, along with an updated SOAF, and a series of questions, to Dr. Michael J. Battaglia, a Board-certified orthopedic surgeon, for a second opinion examination to determine the extent of appellant's bilateral upper extremity permanent impairment utilizing the A.M.A., *Guides*. The SOAF listed accepted diagnoses under OWCP File No. xxxxxx931 of bilateral carpal tunnel syndrome, right lateral epicondylitis, right ulnar nerve lesion, sprain of carpal joint of right wrist, other cervical disc degeneration at C5-6 level (Permanent Aggravation), and other cervical disc degeneration at C6-7 level (Permanent Aggravation). It also listed the accepted diagnoses under OWCP File No. xxxxxx123 including unspecified sprain of the right shoulder joint.

In a September 17, 2024 report, Dr. Battaglia noted his review of the updated SOAF and the medical record. He related that appellant's diagnoses were "per the statement of accepted facts": carpal tunnel syndrome, right upper limb, related, resolved; lateral epicondylitis, right elbow, related, resolved; left carpal tunnel syndrome, related, resolved; lesion of ulnar nerve, right upper limb, related, resolved; sprain of carpal tunnel joint of right wrist, related, resolved. Dr. Battaglia related appellant's symptoms of numbness in the ulnar distribution of her right small finger and left long and ring fingers. On examination, he observed restricted cervical spine motion in all planes, with pain turning her neck to the left greater than to the right. Dr. Battaglia opined that appellant had "no radicular component to her pain." He obtained circumference measurements of the upper arm of 34 cm on the right and 32 cm on the left, right forearm at 27 cm and 28 cm on the left, which he found "unusual for [a] right-hand dominant person." Dr. Battaglia obtained three trials of range of motion measurements for the upper extremities. He characterized all range of motion measurements as within normal limits. Dr. Battaglia found as appellant had normal sensory findings in the radial and ulnar borders of all digits, two-point discrimination testing was not necessary. He administered a *Quick*DASH questionnaire with a score of 88, characterized as severe. Dr. Battaglia found that appellant had reached MMI as of that date. He opined that the ROM methodology was not applicable as appellant had no loss of motion in either upper extremity. Dr. Battaglia found no permanent impairment of the left upper extremity as the left carpal tunnel syndrome and left ulnar nerve lesion had resolved, with no objective findings on clinical examination or electrodiagnostic studies. Regarding permanent impairment of the right upper extremity due to carpal tunnel syndrome, he referred to Table 15-23 of the A.M.A., *Guides* and assigned a GMCS of 1, a GMFH of 1 for mild intermittent symptoms, a GMPE of 0, and a functional scale modifier of 3 for the *Quick*DASH score of 88, resulting in a net grade modifier of 1, which equaled three percent permanent impairment of the right upper extremity. Regarding

permanent impairment of the right upper extremity due to an ulnar nerve lesion, Dr. Battaglia found a GMCS of 2, a GMFH of 1, and a GMPE of 0, for a net grade modifier of 1, which equaled three percent permanent impairment of the right upper extremity. He explained that there were two entrapment ratings, resulting in five percent permanent impairment of the right upper extremity.[6]

On February 20, 2025 OWCP referred the case record, including Dr. Battaglia's September 17, 2024 report, and a SOAF, to Dr. Katz, serving as the DMA, for review and an opinion regarding appellant's permanent impairment.

In a March 1, 2025 report, Dr. Katz reviewed Dr. Battaglia's September 17, 2024 report and concurred with his impairment rating and methodology.

By decision dated March 27, 2025, OWCP denied appellant's claim for an increased schedule award, finding that the medical evidence of record was insufficient to establish greater permanent impairment than that which was previously awarded. It accorded the weight of the medical evidence to Dr. Battaglia's September 17, 2024 report, as reviewed by Dr. Katz, the DMA.

## ***LEGAL PRECEDENT***

The schedule award provisions of FECA[7] and its implementing regulations[8] set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use, of scheduled members or functions of the body. However, FECA does not specify the manner in which the percentage of loss of a member shall be determined. For consistent results and to ensure equal justice under the law for all claimants, OWCP has adopted the A.M.A., *Guides* as the uniform standard applicable to all claimants.[9] As of May 1, 2009, the sixth edition of the A.M.A., *Guides*, is used to calculate schedule awards.[10]

Impairment due to carpal tunnel syndrome is evaluated under the scheme found in Table 15-23 (Entrapment/Compression Neuropathy Impairment) and accompanying relevant text.[11] In Table 15-23, grade modifiers levels (ranging from zero to four) are described for the categories of test findings, history, and physical findings. The grade modifier levels are averaged to arrive at the appropriate overall grade modifier level and to identify a default rating value. The default

[6] On September 24, 2024 OWCP expanded acceptance of the claim under OWCP File No. xxxxxx123 to include stiffness of the left knee, not elsewhere classified; patellofemoral disorders of the left knee; and sprain of the medial collateral ligament of the left knee subsequent encounter.

[7] *Supra* note 2.

[8] 20 C.F.R. § 10.404.

[9] *Id.*; *see also Jacqueline S. Harris,* 54 ECAB 139 (2002).

[10] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (March 2017); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

[11] A.M.A., *Guides* (6th ed. 2009) 449.

rating value may be modified up or down based on functional scale, an assessment of impact on daily living activities.[12]

OWCP issued FECA Bulletin No. 17-06 to explain the use of the DBI methodology *versus* the ROM methodology for rating of upper extremity impairments.[13] FECA Bulletin No. 17-06 provides:

> "Upon initial review of a referral for upper extremity impairment evaluation, the DMA should identify: (1) the methodology used by the rating physician (*i.e.,* DBI or ROM); and (2) whether the applicable tables in Chapter 15 of the [A.M.A.,] *Guides* identify a diagnosis that can alternatively be rated by ROM. *If the [A.M.A., Guides] allow for the use of both the DBI and ROM methods to calculate an impairment rating for the diagnosis in question, the method producing the higher rating should be used.*"[14] (Emphasis in the original).

In determining impairment for the upper extremities under the sixth edition of the A.M.A., *Guides*, an evaluator must establish the appropriate diagnosis for each part of the upper extremity to be rated. With respect to the fingers and hand, the relevant portions of the arm for the present case, reference is made to Table 15-2 (Digital Regional Grid) beginning on page 391. After the CDX is determined from the appropriate regional grid (including identification of a default grade value), the net adjustment formula is applied using a GMFH, a GMPE, and/or a GMCS. The net adjustment formula is (GMFH - CDX) + (GMPE - CDX) + (GMCS - CDX).

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed to its DMA for an opinion concerning the nature and percentage of impairment in accordance with the A.M.A., *Guides*, with the DMA providing rationale for the percentage of impairment specified.[15]

## ***ANALYSIS***

The Board finds that this case is not in posture for decision.

In a September 17, 2024 report, Dr. Battaglia noted his review of the updated SOAF and the medical record. He related that appellant's diagnoses were, "per the statement of accepted facts": carpal tunnel syndrome, right upper limb, related, resolved; lateral epicondylitis, right elbow, related, resolved; left carpal tunnel syndrome, related, resolved; lesion of ulnar nerve, right upper limb, related, resolved; sprain of carpal tunnel joint of right wrist, related, resolved. Dr. Battaglia omitted the accepted occupational conditions of other cervical disc degeneration at C5-6 level (Permanent Aggravation), other cervical disc degeneration at C6-7 level (Permanent Aggravation), and right shoulder joint sprain as set forth in the SOAF provided to him.

[12] *Id.* at 448-49.

[13] FECA Bulletin No. 17-06 (issued May 8, 2017).

[14] *Id.*

[15] *Supra* note 10 at Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5(a) (March 2017).

OWCP's procedures and Board precedent dictate that when an OWCP medical adviser, second opinion specialist, or referee physician does not rely on a SOAF as the framework in forming his or her opinion, the probative value of the opinion is seriously diminished or negated altogether.[16] As Dr. Battaglia did not rely on the SOAF as a framework in reaching his conclusions, his report is of diminished probative value.[17]

It is well established that proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares the responsibility in the development of the evidence to see that justice is done.[18] Once it undertakes development of the record, it must do a complete job in procuring medical evidence that will resolve the relevant issues in the case.[19] Accordingly, the Board finds that the case must be remanded to OWCP.[20]

On remand, OWCP shall refer appellant, the medical record, and an updated SOAF to a new specialist in the appropriate field of medicine for a second opinion regarding whether appellant has greater than 18 percent permanent impairment of her right upper extremity and 5 percent permanent impairment of her left upper extremity, for which she previously received schedule award compensation in accordance with the sixth edition of the A.M.A., *Guides* and *The Guides Newsletter, Rating Spinal Nerve Extremity Impairment Using the Sixth Edition* (July/August 2009) (*The Guides Newsletter*).[21] Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

## ***CONCLUSION***

The Board finds that this case is not in posture for decision.

[16] Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.3 (October 1990). *See also D.T.*, Docket No. 21-1168 (issued April 6, 2022); Docket No. 21-0780 (issued December 22, 2021); *Paul King*, 54 ECAB 356 (2003).

[17] *See also J.Z.*, Docket No. 22-0829 (issued December 9, 2022).

[18] *See J.Z., id.*; *L.F.*, Docket No. 20-0549 (issued January 27, 2021).

[19] *P.W.*, Docket No. 22-0218 (issued November 28, 2022); *D.S.*, Docket No. 19-0292 (issued June 21, 2019).

[20] *S.J.*, Docket No. 22-0714 (issued March 31, 2023).

[21] *See G.R.,* Docket No. 24-0791 (issued October 28, 2024); *E.L.,* Docket No. 23-0515 (issued May 8, 2024).

## ***ORDER***

**IT IS HEREBY ORDERED THAT** the March 27, 2025 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: December 10, 2025
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board